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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/583,863

06/01/2000

Guy Nathan

871-80

4666

23117

7590

10/19/2009

NIXON & VANDERHYE, PC

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EXAMINER

SHANG, ANNAN Q

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

10/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/583,863	Applicant(s) NATHAN ET AL.
Examiner ANNAN Q. SHANG	Art Unit 2424

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Annan Q Shang/
Primary Examiner, Art Unit 2424

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments with respect to the rejection of claims 1 and 4-6, mailed on 06/10/09, have been considered but are persuasive. With respect to claims 1 and 4-6, rejected under 35 U.S.C. 102(b) as being anticipated by Guy Nathan et al. (WO 96/12257), Applicant discusses the prior arts of record and argues that the rejection using the prior art of record is not proper (see page 2+ of Applicant's Remarks/Arguments).

In response, Examiner disagrees. Examiner notes Applicant's arguments, however, Nathan teaches that, the hard disk system stores songs, videos, etc., and that part of the songs, videos, etc., not stored because of insufficient space, the manager or operator deletes a few songs, videos, etc., from the disk to again request that the center send these songs, videos, etc., or the part not received and further suggests that they can be done physically in circuit to which they are assign or implemented by software (page 25, line 35-page 26, line 17), which is clearly anticipated and hence meets, the claim limitations. Nathan further discloses that buffering could also be done by reserving space/location/size of the memory within the memory of the system or in another word, the "tampons" or buffers could be reserved using any types of memories, i.e., RAM/ROM/HDD...). Nathan further discloses a database management system, page 18, lines 13-15, reads on Nathan's Database management system (a specific reception function) because DBMS is a software interface between the database and the user in which the DBMS handles performs database actions, i.e., search, update, retrieveof the database's records (audiovisual files) of the database stored on the storage by the record's fields (specified information) representative of the type of data (i.e., song or video) contained in the record (...effectuer les mises a jour des base de donnees ou de version de chanson souhaitees; page 25, lines 18-20). "processing each file by the corresponding reception function, the processing comprising copying the received file stored in the storage area to update a database of the audiovisual reproduction system according to the data included in the received file, where the minimum size corresponds to a size of the file sent by the central server" reads on Nathan's Database management system inherently comprises the process of writing/copying of the file received to a specified storage area 21, as discussed below ("mises a jour des base de donnees" page 22, lines 18-27 ; page 24, lines 8-24 and pages 25, lines 18-22). Hence the rejection is proper, meets all the claims limitations. The finality of the last office action is proper and hereby maintained.